

REMARKS

This response is made to the communication from the Patent Office dated October 26, 2010 (The Office Action), which indicated that Applicant's response of September 16, 2010 was not responsive to the restriction requirement dated August 17, 2010 (the Restriction Requirement). Currently, claims 1-19, 21, 25, 26 and 29 are pending. Applicant has previously elected Group A<sub>n</sub> having claims 2-15, 21, 25-26 and 29.

The Office Action did not accept Applicants election of DAP-kinase as component B, and Applicant's election of component A as antibodies, antibody derivatives, antibody fragments, and scFv structures. The Office Action specified that component A be selected from the list of components A recited in the claims, e.g, claim 2.

Accordingly, Applicant, through counsel, selects "antibody derivatives" listed in claim 2.

The Office Action specified that component B be selected from the list of components B recited in the claims.

Accordingly, Applicant, through counsel, selects component B as "DAPk2" listed in claim 7.

Since claim 1 is generic to this Group, its examination with the Group is requested. The election reads on claims 2-5, 7-8, 10-11, 13-15, 21, 25-26 and 29; these claims are listed only to facilitate examination and no substantive admissions are made.

The restriction of component A is traversed on the grounds that Applicant has admitted that the previously elected component A members were not patentably distinct: "For component A, antibodies, antibody derivatives, antibody fragments, and scFv structures are elected (claim 2); please note that these elected component A species are equivalents for purposes of the claims and are not distinct from each other." Restriction between indistinct elements is believed to be clear error.

The restriction of component B is traversed on the grounds that DAPk family can be searched with minimal burden compared to election of a member of the DAPk family, i.e., DAPk2 as specified herein.

The Restriction Requirement for both components A and B is very respectfully traversed on the grounds that larger groups could reasonably be searched without undue investment of searching time. As a second grounds of traversal, Applicant insists that it has a right to have generic claim 1 examined and that Applicant's election of species as set forth herein facilitates a reasonable process for searching the same. Accordingly, the Examiner is requested to treat the election of component A as a species election and to broaden the search to all components A that comprise "a binding domain for extra-cellular surface structures that internalize upon binding of component A of said complex" (claim 1). A search can be reasonably undertaken for a DAPk in combination with components A that comprise a binding domain for extra-cellular surface structures that internalize upon binding of component A of said complex. This suggestion is not an admission of any kind.

Applicant further traverses the Restriction Requirement on the grounds that the special technical feature further includes wherein the "complex is synthetic, soluble, and endogenous" (claim 1). As discussed in the Application at page 8 line 15 to page 9, line 4, the relevant molecules set forth in US 5,670,324 cited in the Restriction requirement are not synthetic, soluble, and endogenous. Accordingly, it is respectfully submitted that the basis for the Restriction Requirement is incorrect.

The Examiner is invited to telephone the undersigned if the Examiner believes it would be useful to advance prosecution.

Respectfully submitted,

/Curtis B. Herbert/  
Curtis B. Herbert, Ph.D., Reg. #45,443

Customer No. 62274  
Dardi & Herbert, PLLC  
Moore Lake Plaza, Suite 205  
1250 East Moore Lake Drive  
Fridley, MN 55432  
Telephone: (763) 412-3824